

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 8th day of July 2013 A.D. at 7:00 p.m.

Vice President deMedeiros opened the meeting with the Pledge of Allegiance to the Flag.

**Roll Call: Edward A. Roderick-President - Absent William P. Gerlach
Denise M. deMedeiros-Vice President Jay J. LambertJames
Arruda Brett N. Pelletier - Absent
Joan B. Chabot**

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Vice President deMedeiros read the items on the Consent Agenda. Councilor Gerlach requested removal of item CA2c, Historic Preservation Advisory Board minutes and Town Administrator Goncalo requested removal of item CA1a, Minutes from the Regular Council Meeting June 24, 2013 for a slight correction.

Councilor Gerlach made a motion, seconded by Councilor Lambert to approve the items on the Consent Agenda, pulling off items A1a, Approval of Minutes Regular Council Meeting June 24, 2013 -Councilor Arruda Abstained – Absent and item CA2c, Historic Preservation Advisory Board minutes. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- b. Approval of Executive Session Minutes June 24, 2013 - Councilor Arruda Abstained - Absent**
- c. Approval of Workshop Minutes June 17, 2013 - Councilor Arruda and Councilor Pelletier Abstained - Absent**

A-2-Receipt of Minutes from the Following Boards, Commissions:

- a.Prevention Coalition**
- b.Library Board of Trustees(2)**
- c. Open Space Commission**

A-3-Correspondence – Receive and File:

- a. Charlestown Town Council – Resolution Opposing H-6167 Limiting Local Control of Subdivision Review**

b. City of Boston Appreciation of Tiverton's Expression of Solidarity

A-4-Approval of Tax Assessor Abatement

**A-5-Narragansett Bay Wheelmen, Providence, RI – Request
Permission to Hold Annual Bike Ride on Sunday, September 8, 2013 -
Police Chief Recommendation**

BUSINESS BROUGHT BEFORE THE COUNCIL

**Approval of Minutes Regular Council Meeting June 24, 2013-
Councilor Arruda Abstained – Absent**

**Town Administrator Goncalo requested a correction to page 5, first
sentence where the Budget Committee recommended \$20,000, should
be \$21,000.**

**Councilor Gerlach made a motion, seconded by Councilor Lambert
to approve item CA1a, Approval of Minutes Regular Council Meeting
June 24, 2013- Councilor Arruda Abstained – Absent, as amended.
Motion passed unanimously.**

**Minutes from the Following Boards, Commissions - Historic
Preservation Advisory Board**

**Councilor Gerlach noted on the minutes of the Historic Preservation
Advisory Board referred to a proposed historic zoning district. T/A
Goncalo will contact that Board for more information.**

Councilor Gerlach made a motion, seconded by Councilor Lambert

to approve item CA2C, Historic Preservation Advisory Board Minutes. Motion passed unanimously.

OPEN PUBLIC FORUM

Joanne Moniz was signed up to speak, not yet in attendance. Barbara Pelletier had given handouts to the Town Clerk regarding availability of general information, need some place in Town Hall for an accessible stand. Mrs. Pelletier also suggested adding to the highway signs, would help find a sponsor. Town Clerk will put on the next agenda. Mrs. Pelletier also suggested a committee consisting of members from various Town Boards and Commissions to meet once a month for information sharing. Jim O'Dell had a question about the RI Turnpike and Bridge Authority Lawsuit for Solicitor Teitz. Solicitor Teitz explained, the Bridge Tolls were not on the agenda, a motion can be made to add to the agenda for discussion only, did not put on because of the timing due to the General Assembly legislation. The Council can hear public comment; have to add to the agenda.

Councilor Gerlach made a motion, seconded by Councilor Arruda to add to the agenda on the Sakonnet River Bridge Tolls as item K2 on the agenda. Motion passed unanimously.

Lee Hoyer, Library Building Committee, shared good news. The Office of Library Services (OLIS) construction grant was recently approved. Barbara Donnelly signed for the Trustees for a grant of approximately \$4million dollars pending completion and audits. Waiting for DEM

wetlands approval and DOT utility movement.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

ADVERTISED PUBLIC HEARINGS

St. Theresa Church – Public Hearing for Sound Variance and Special Event/Outdoor Entertainment License For Event to Take Place On Friday August 2nd From 5pm to 10 pm, Saturday August 3rd From 12pm to 10pm and Sunday August 4th From 12pm to 6pm

Raymond LePage, Chair of the event handed out the entertainment lineup for the Feast. Vice President deMedeiros opened the hearing to public comment; after several calls for comment, hearing none, closed the public comment portion.

Councilor Lambert made a motion, seconded by Councilor Gerlach to approve the Sound Variance and Special Event/Outdoor Entertainment License for the Event dates and times as fully described in the Agenda. Motion passed unanimously.

Tiverton Land Trust – Public Hearing for Sound Variance and Special Event/Outdoor Entertainment License for Event “Country Day at Pardon Gray” To Take Place On Saturday, September 21st With Rain Date of Sunday, September 22nd from 8:00am to 4:00pm

Wayne Browning, Tiverton Land Trust, noted the start time of the event was 10:00 a.m. as listed on the application, not 8:00 a.m. as seen on the agenda. Vice President deMedeiros opened the hearing for public comment. Hearing none Vice President deMedeiros closed

the public comment portion.

Councilor Lambert made a motion, seconded by Councilor Gerlach to approve the Sound Variance and Special Event/Outdoor Entertainment License for Event “Country Day at Pardon Gray” for the dates noted and time as corrected in open session. Motion passed unanimously.

TOWN COUNCIL SITTING AS BOARD OF LICENSING:

NON ADVERTISED LICENSE

East Lake Variety, 750 East Road - Requests Approval of Annual Fireworks License – Subject To Meeting All Legal Requirements
Fire Department Chief Robert Lloyd recommended approval for this annual fireworks license.

Councilor Lambert made a motion, seconded by Councilor Gerlach to approve the request for Annual Fireworks License for East Lake Variety, 750 East Road, subject to meeting all legal requirements. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

NEW REQUESTS FOR APPOINTMENT FOR BOARDS WITH VACANCIES

Art Commission–One Vacancy – 2 Year Term Expiring 4/15/2015 - Ruth A. Medeiros, 48 Springer Avenue

Councilor Chabot explained Ms. Medeiros was unable attend Council meeting, has attended several Art receptions, familiar with the other members who fully support the appointment. Ms. Medeiros previously designed calendars and volunteered at the Essex Library, had a lifelong interest in Art.

Councilor Chabot made a motion, seconded by Councilor Gerlach to appoint Ruth A. Medeiros for a two year term expiring April 15, 2015, to the Art Commission. Motion passed unanimously.

NEW BUSINESS:

Fire Chief Lloyd – Permission to Advertise to Establish a List for Position of Firefighter/EMT And Hire a Replacement for an Opening in the Department

Chief Lloyd explained one Firefighter has sought employment elsewhere, exhausted the most recent list, need to readvertise. Have advertised previously in the Fall River Herald News, Providence Journal and the Sakonnet Times. Try to use social media as well, is a long process.

Councilor Gerlach made a motion, seconded by Councilor Arruda giving Chief Lloyd permission to Advertise to Establish a List for Position of Firefighter/EMT and Hire a Replacement for an Opening in the Department. Motion passed unanimously.

Town Administrator – Request Council Acceptance of the Quaker

Avenue Extension as Town Owned and Maintained Road

T/A Goncalo explained during construction of the New Sakonnet Bridge a section of Quaker Avenue was not connected. Requested the State to pave this extension that connects both sides of Quaker Ave. It is completed to State standards, request the Council approve to accept this small portion as a Town owned and maintained road. It will be called Quaker Avenue.

Councilor Chabot made a motion, seconded by Councilor Arruda to accept Quaker Avenue Extension connecting the lower and upper portion during the Sakonnet River Bridge construction as indicated in item G2 on this agenda. Motion passed unanimously.

Town Administrator – Temporary Storm Debris Storage Site at Closed Section of Landfill

T/A Goncalo explained after super storm Sandy was approached by RI Department of Transportation, (DOT), Department of Environmental Management (DEM) and Emergency Management Agency (EMA) to use a portion of the closed section of the Landfill in the event of another emergency. Need a place to stage debris. Working on a tentative agreement. DPW Director Berlucchi explained this would cover surrounding communities, DEM will test the ground, they separate and sort all the materials, inspect and document. DEM intends to use an area of the closed section of the landfill, will pave one area cost approximately \$31,000. DOT is the lead agency. They would take the Tiverton debris as well. Chief Lloyd added, this was

part of the debris management plan, very advantageous, every truckload has to be surveyed, inspected and separated. This way the Town will not have to establish a site. At this point they will staff, would have a ten foot tower. Still negotiating, T/A Goncalo will keep Council informed.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

1. Taxes collected as of June 30, 2013, 97.25% of levy, last year 97.21%, little ahead by .4%. Prepayments as of 6/30/13, \$4.3 million, last year \$3.8 million.
2. Recycling in June 2012 174 tons, June 2013 173 tons.
3. The DPW will be painting lines on Warren Avenue, stop bars where needed around Town.
4. Received updated Certificate of Liability for No. Tiverton Fire Station roof reshingle.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Gerlach was in communication with Director Coit regarding the Stafford Pond ordinance. Town Clerk Mello did get an email from DEM, sent a copy. Councilor Chabot polled the Council on a Special Meeting just for the Town Administrator's performance evaluation. Solicitor Teitz was available on Wednesday; Council will get back to Clerk.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

District Court C.A.No.13-344 M – LAL Construction Co., Inc. v. Town

of Tiverton

a.Defendants Answer

b.Letter Regarding Discovery Dispute

Solicitor Teitz, provided in the Council packet, part of the Federal Court suit against the Town and three Town officials. The Interlocal Trust will defend; Attorney DeSisto will be filing a motion to dismiss. The second item regarding the State lawsuit is a letter from Assistant Solicitor Gina DiCenso regarding a request for copies, considered overly broad and onerous.

Added to Agenda – Discussion on Bridge Toll Litigation

Solicitor Teitz explained the case is currently on appeal in the First Circuit Court in Boston which was filed in June, had to file in District Court first and request a Stay, then Federal. The Circuit Court did not do anything, are still proceeding. With Council permission and the communities, doing some of our own traffic studies trying to establish something to compare. Mr. O'Dell questioned if there was some mechanism to be heard sooner. Solicitor Teitz explained, has been rushed forward, had Executive Session in June to go forward right away, made all the filings for an emergency stay, can do nothing at this point, will be heard in due course. The traffic study will last about three weeks. May try to set a meeting of the three Town Councils together.

OPEN PUBLIC FORUM:

Joanne Moniz had given an email to the Town Clerk for distribution to

the Council. The Clerk explained to Ms. Moniz it was received at 4pm, had made copies and will distribute but cannot discuss. Ms. Moniz urged the Council to read the email before going into Executive Session.

TOWN CLERK ANNOUNCEMENTS:

Draft Agenda for July 29 Workshop

Town Clerk Mello drafted a workshop agenda, seeing if Council has additions or deletions, will be posted by July 25th, agenda is getting lengthy. Councilor Gerlach explained, was working with Garry Plunkett, need to confirm other participants, can put a time limit. Will work directly with the Clerk.

Correction on June 24th Agenda – June 10th Minutes Incorrectly Listed on Agenda Only as June 14

Town Clerk Mello explained the Council agenda of June 24th incorrectly listed the approval of Council minutes for June 14th, should have been June 10th. Was corrected in the minutes. Regarding Ms.Moniz email, did explain cannot distribute for discussion on tonight's meeting, Council cannot act, would copy and distributed for information tonight.

CLOSED EXECUTIVE SESSION:

- 1. Town Solicitor–Litigation– 42-46-5(a) (2) – Town of Tiverton v.**

James and Melissa Pelletier

**2. Town Administrator - Prospective Business or Industry-42-46-5(a)
(6) – Industrial Park**

Councilor Lambert made a motion, seconded by Councilor Chabot to go into Closed Executive Session pursuant to RI General Law 42-46-5(a) (2) – Litigation – Town of Tiverton v. James and Melissa Pelletier. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue in Closed Executive Session pursuant to 42-46-5(a) (6) – Town Administrator – Prospective Business or Industry – Industrial Park. Motion passed unanimously.

The Council entered into Executive Session at approximately 7:50 p.m.

The Council returned to Open Session at approximately 9:15 p.m.

OPEN SESSION:

In Open Session Vice President deMedeiros announced no action taken regarding item one. Action was taken regarding Industrial Park.

Councilor Chabot motioned to seal the minutes of Executive Session, seconded by Councilor Lambert, passed unanimously.

ADJOURNMENT:

Councilor Chabot motioned to adjourn. Seconded by Councilor Lambert, passed unanimously.

Council adjourned at approximately 9:25p.m.

A True Copy.

ATTEST: _____

Nancy L. Mello, Town Clerk